

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BARBARA STINSON,

Case No.: 1:18-cv-11350-JPO-
OTW

Plaintiff,

-against-

**HOUSLANGER & ASSOCIATES, PLLC,
TODD HOUSLANGER,
DEMI, LLC d/b/a DEMI OF NEW YORK,
MATTHEW BLAKE,
BRYAN C. BRYKS, and
HARRY TORRES**

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**DECLARATION OF AHMAD KESHAVARZ IN SUPPORT OF PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT**

Pursuant to 28 U.S.C. § 1746, AHMAD KESHAVARZ declares under penalty of perjury that the foregoing is true and correct.

1. I am a member of the Bar of this Court and the principal for The Law Office of Ahmad Keshavarz for Plaintiff BARBARA STINSON ("Plaintiff").
2. I make this Declaration in support of Plaintiff's Motion for Summary Judgment.
3. I make this Declaration based on my own personal knowledge and documents publicly filed with this Court.
4. I make this Declaration for the purpose of presenting such documents to the Court for consideration in connection with the Motion, and respectfully refer the Court to the accompanying Memorandum of Law for Plaintiff's factual and legal arguments.
5. On December 7, 2020, I used the New York eCourts website to review cases where Houslanger & Associates, PLLC represented the plaintiff in New York City.

6. This search produced 2,586 cases in Bronx County, 3,332 cases in Kings County, 2,150 cases in New York County, and 3,223 cases in Queens County, a total of 11,291 cases.

7. In the vast majority of these cases, H&A represents debt buyers.

8. The cases include both cases that H&A initiated in 2005 and cases initiated in 2005 that H&A, at some time thereafter, substituted into.

9. Attached hereto as **Exhibit A** is a true and correct copy of the transcript of the September 26, 2019 deposition of Todd Houslanger and Houslanger & Associates, PLLC (H&A) (“Houslanger Deposition Transcript”).

10. Attached hereto as **Exhibit B** is a true and correct copy of Houslanger Defendants’ Responses to Plaintiff’s First Requests for Admission (“Houslanger’s Responses to First RFAs”).

11. Attached hereto as **Exhibit C** is a true and correct copy of the transcript of the October 7, 2019 deposition of Bryan C. Bryks (“Bryks Deposition Transcript”).

12. Attached hereto as **Exhibit D** is a true and correct copy of the transcript of the November 12, 2019 deposition of Demi, LLC and Matthew Blake (“Demi Deposition Transcript”).

13. Attached hereto as **Exhibit E** is a true and correct copy of the New York City Department of Consumer Affairs Debt Collection License of Demi, LLC (“Demi Debt Collection License”).

14. Attached hereto as **Exhibit F** is a true and correct copy of the summons and complaint in the collection lawsuit *Demi, LLC v. Stinson*, Index No. CV-062732-05/NY, venued in the New York County Civil Court (“Collection Lawsuit”).

15. Attached hereto as **Exhibit G** is a true and correct copy of the search results on the New York Unified Court System eCourts website for lawsuits brought by Demi, LLC in New York in 2005 (“eCourts List of Demi Lawsuits”).

16. Attached hereto as **Exhibit H** is a true and correct copy of the Debtor Detail Report printout from H&A’s CollectorPro debt collection system (Houslanger Account Notes).

17. Attached hereto as **Exhibit I** is a true and correct copy of the alleged template H&A used in 2005 to send putative debtors a notice in compliance with the FDCPA, 15 U.S.C. § 1692g.

18. Attached hereto as **Exhibit J** is a true and correct copy of the spreadsheet entry for the putative account of Barbara Stinson which Defendants relied on in filing and verifying the collection lawsuit (“Demi Spreadsheet Entry for Ms. Stinson”).

19. Attached hereto as **Exhibit K** is a true and correct copy of the case summary for the collection lawsuit *Demi, LLC v. Stinson*, Index No. CV-062732-05/NY, venued in the New York County Civil Court (“Case Summary”).

20. Attached hereto as **Exhibit L** is a true and correct copy of the Office of the State Bank Commissioner of Delaware list of state chartered banks as of June 23, 2017, the Discover Bank FDIC IDI Rule Resolution Plan Public Section, the Delaware State Division of Corporations Registry entry for Discover Bank, and the FDIC BankFind search results for Discover Bank (“Discover Residency Documents”).

21. Attached hereto as **Exhibit M** is a true and correct copy of the Chase Bank USA, NA Articles of Association, the FDIC BankFind search results for Chase Bank USA, NA, the Chase Bank USA, NA Form 10-K Annual Report to the SEC, the Delaware State Division of

Corporations Registry entry for Chase Bank USA, NA, the Supplemental Affidavit of Anthony Demczak, Vice President and Custodian of Records at Chase Bank USA, NA, the FIA Card Services, NA June 10, 2006 Amendment to Articles of Association, the MBNA America, NA Organization Certificate, the Comptroller of the Currency certification of MBNA America, NA, the FDIC BankFind search results for Bank of America, NA, and the FDIC BankFind search results for Applied Bank (“Major Creditor Residency Documents”).

22. Attached hereto as **Exhibit N** is a true and correct copy of the transcript of the October 4, 2019 deposition of Barbara Stinson (“Stinson Deposition Transcript”).

23. Attached hereto as **Exhibit O** is a true and correct copy of the April 20, 2005 Servicing Agreement between Aries Capital Partners, Inc. and Demi, LLC (“Demi Contract”).

24. Attached hereto as **Exhibit P** is a true and correct copy of the Assignment and Bill of Sale between Aries Capital Partners, Inc. and Demi, LLC for “Bad Debt Accounts” on July 11, 2005 (“Assignment and Bill of Sale”).

25. Attached hereto as **Exhibit Q** is a true and correct copy of the December 7, 2020 Declaration by Barbara Stinson (“Stinson Declaration”).

26. Attached hereto as **Exhibit R** is a true and correct copy of the affidavit of service of the summons and complaint in the collection lawsuit *Demi, LLC v. Stinson*, Index No. CV-062732-05/NY, venued in the New York County Civil Court (“Affidavit of Service”).

27. Attached hereto as **Exhibit S** is a true and correct copy of the default judgment entered in the collection lawsuit *Demi, LLC v. Stinson*, Index No. CV-062732-05/NY, venued in the New York County Civil Court (“Default Judgment”).

28. Attached hereto as **Exhibit T** is a true and correct copy of the New York City Department of Consumer Affairs Assurance of Discontinuance of the process server license of Harry Torres (“Assurance of Discontinuance”).

29. Attached hereto as **Exhibit U** is a true and correct copy of the income execution by H&A pursuant to the judgment in the collection lawsuit *Demi, LLC v. Stinson*, Index No. CV-062732-05/NY, venued in the New York County Civil Court (“Income Execution”).

30. Attached hereto as **Exhibit V** is a true and correct copy of the account notes of the Westchester County Sheriff for the income execution in the collection lawsuit *Demi, LLC v. Stinson*, Index No. CV-062732-05/NY, venued in the New York County Civil Court (“Account Notes of Westchester County Sheriff”).

31. Attached hereto as **Exhibit W** is a true and correct copy of the Verizon wireless records of incoming and outgoing calls for Barbara Stinson from February 13, 2018 through February 19, 2018 (“Phone Records”).

32. Attached hereto as **Exhibit X** is a true and correct copy of the transcript of the July 13, 2020 deposition of Michael Plagianos (“Plagianos Deposition Transcript”).

33. Attached hereto as **Exhibit Y** is a true and correct copy of the transcript of the phone call between Barbara Stinson and Michael Plagianos at the offices of Houslanger & Associates, PLLC on February 16, 2018 (“Feb. 16 Call Transcript”).

34. Attached hereto as **Exhibit Z** is a true and correct copy of the first Order to Show Cause filed in the collection lawsuit *Demi, LLC v. Stinson*, Index No. CV-062732-05/NY, venued in the New York County Civil Court (“First OSC”).

35. Attached hereto as **Exhibit AA** is a true and correct copy of the second Order to Show Cause filed in the collection lawsuit *Demi, LLC v. Stinson*, Index No. CV-062732-05/NY, venued in the New York County Civil Court (“Second OSC”).

36. Attached hereto as **Exhibit BB** is a true and correct copy of Defendants’ Response to Discovery Directed at January 14, 2020 Status Conference (“Houslanger Pattern and Practice Disclosures”).

37. Attached hereto as **Exhibit CC** is a true and correct copy of the New York State Unified Court System eCourts calendar for H&A pulled on October 9, 2019 and November 4, 2019 (“eCourts Houslanger Calendar”).

38. Attached hereto as **Exhibit DD** is a true and correct copy of the Opposition to the Second OSC in the collection lawsuit *Demi, LLC v. Stinson*, Index No. CV-062732-05/NY, venued in the New York County Civil Court (“Opposition to OSC”).

39. Attached hereto as **Exhibit EE** is a true and correct copy of the Declaration of Sidney Cherubin, Esq., Director of Legal Services in the Brooklyn Bar Association Volunteer Lawyers Project (“Legal Services Declaration”).

40. Attached hereto as **Exhibit FF** is a true and correct copy of the March 9, 2018 email with attachments sent by Nancy Pitkofsky to H&A (“March 9 Email”).

41. Attached hereto as **Exhibit GG** is a true and correct copy of the Order on March 9, 2018 in the collection lawsuit *Demi, LLC v. Stinson*, Index No. CV-062732-05/NY, venued in the New York County Civil Court (“Order to Refile OSC”).

42. Attached hereto as **Exhibit HH** is a true and correct copy of the transcript of the call between Barbara Stinson and Bryan C. Bryks on March 22, 2018 (“March 22 Call Transcript”).

43. Attached hereto as **Exhibit II** is a true and correct copy of the cover letter and mutual stipulation sent to Barbara Stinson on April 5, 2018 by H&A (“Cover Letter and Stipulation”).

44. Attached hereto as **Exhibit JJ** is a true and correct copy of the post-it note and business card included with the Cover Letter and Stipulation by the direction of Bryan C. Bryks (“Post-It Note and Business Card”).

45. Attached hereto as **Exhibit KK** is a true and correct copy of the Third Order to Show Cause filed by Barbara Stinson in the collection lawsuit *Demi, LLC v. Stinson*, Index No. CV-062732-05/NY, venued in the New York County Civil Court (“Third OSC”).

46. Attached hereto as **Exhibit LL** is a true and correct copy of the email with attachments sent by Bryan C. Bryks to Nancy Pitkofsky on April 11, 2018 (“April 11 Email”).

47. Attached hereto as **Exhibit MM** is a true and correct copy of the Order granting the Third OSC in the collection lawsuit *Demi, LLC v. Stinson*, Index No. CV-062732-05/NY, venued in the New York County Civil Court (“Order on OSC”).

48. Attached hereto as **Exhibit NN** is a true and correct copy of Docket Entry 45, the Answer by Defendants H&A, Todd Houslanger, Matthew Blake, and Bryan C. Bryks (“Houslanger Answer”).

49. Attached hereto as **Exhibit OO** is a true and correct copy of the Opposition to the Order to Show Cause in the collection lawsuit *Asta Funding Acquisition III, LLC v. Soto*, Index No. CV-109587-03/BX (“Asta Funding v. Soto”).

50. Attached hereto as **Exhibit PP** is a true and correct copy of the Affidavit of William Soto (“Soto Affidavit”).

51. Attached hereto as **Exhibit QQ** is a true and correct copy of the case file for *Colonial Credit Corporation v. Then*, Index No. CV-030370-05/NA (“Colonial Credit Corp. v. Then”).

52. Attached hereto as **Exhibit RR** is a true and correct copy of the Order to Show Cause filed in the collection lawsuit *Colonial Credit Corporation v. Then*, Index No. CV-030370-05/NA (“Cepeda OSC”).

53. Attached hereto as **Exhibit SS** is a true and correct copy of the case file for the collection lawsuit *Great Seneca Financial Corp. v. Khan*, Index No. CV-084555-05/QU (“Great Seneca Financial Corporation v. Khan”).

54. Attached hereto as **Exhibit TT** is a true and correct copy of the case file for the collection lawsuit *Great Seneca Financial Corp. v. Westbrooks*, Index No. CV-046953-04/KI (“Great Seneca Financial Corp. v. Westbrooks”).

55. Attached hereto as **Exhibit UU** is a true and correct copy of the case summary in the collection lawsuit *Platinum Financial Services Corp. v. Levy*, Index No. CV-038127-02/NY (“Levy Case Summary”).

56. Attached hereto as **Exhibit VV** is a true and correct copy of the Declaration of Isaac Levy (“Levy Declaration”).

57. Attached hereto as **Exhibit WW** is a true and correct copy of the Supplemental Affidavit to the Order to Show Cause filed in the collection lawsuit *Platinum Financial Services Corp. v. Levy*, Index No. CV-038127-02/NY (“Levy OSC”).

58. Attached hereto as **Exhibit XX** is a true and correct copy of the case file for the collection lawsuit *NCO Portfolio Management v. Clavijo*, Index No. CV-311710-03/KI (“NCO Portfolio Management v. Clavijo”).

59. Attached hereto as **Exhibit YY** is a true and correct copy of the Opposition to the Order to Show Cause filed in the collection lawsuit *New Century Financial Services Inc. v. Burkett*, Index No. CV-043924-02/BX (“New Century Financial Services v. Burkett”).

60. Attached hereto as **Exhibit ZZ** is a true and correct copy of the case file for the collection lawsuit *Palisades Acquisition XVI, LLC v. Leong*, Index No. CV-119208-07/QU (“Palisades Acquisition v. Leong”).

61. Attached hereto as **Exhibit AAA** is a true and correct copy of the Opposition to the Order to Show Cause filed in the collection lawsuit *Pinpoint Technologies, LLC v. Ortiz*, Index No. CV-009325-07/QU (“Pinpoint Technologies v. Ortiz”).

62. Attached hereto as **Exhibit BBB** is a true and correct copy of the Opposition to the Order to Show Cause filed in the collection lawsuit *Platinum Financial Services Corp. v. Foss*, Index No. CV-074312-02/QU (“Platinum Financial Services Corp. v. Foss I”)

63. Attached hereto as **Exhibit CCC** is a true and correct copy of the Opposition to the Order to Show Cause filed in the collection lawsuit *Platinum Financial Services Corp. v. Foss*, Index No. CV-076526-02/QU (“Platinum Financial Services Corp. v. Foss II”)

64. Attached hereto as **Exhibit DDD** is a true and correct copy of the Opposition to the Order to Show Cause filed in the collection lawsuit *Platinum Financial Services Corp. v. Viruet*, Index No. CV-082607-02/KI (“Platinum Financial Services Corp. v. Viruet”).

65. Attached hereto as **Exhibit EEE** is a true and correct copy of the Affidavit of Luis Viruet (“Viruet Affidavit”).

66. Attached hereto as **Exhibit FFF** is a true and correct copy of the Opposition to the Order to Show Cause filed in the collection lawsuit *Rushmore Recoveries XIV, LLC v. Dupres*, CV-062338-07/QU (“Rushmore Recoveries v. Dupres”).

67. Attached hereto as **Exhibit GGG** is a true and correct copy of the Affidavit of Jenifer Dupres (“Dupres Affidavit”).

68. Attached hereto as **Exhibit HHH** is a true and correct copy of the Opposition to the Order to Show Cause filed in the collection lawsuit *Rushmore Recoveries XI, LLC v. Kingdom*, CV-30812-06/KI (“Rushmore Recoveries v. Kingdom”).

WHEREFORE, for the reasons set forth herein and in the accompanying Memorandum of Law, Plaintiff respectfully requests for the court to enter summary judgment as to liability under the FDCPA, GBL § 349, and Jud. Law § 487, as to entitlement to punitive damages under GBL § 349, and allow the case to proceed to trial solely on the issue of damages.

Dated: Brooklyn, New York
December 7, 2020

/s/
Ahmad Keshavarz
Law Office of Ahmad Keshavarz
16 Court St., 26th Floor
Brooklyn, NY 11241
Attorney for Plaintiffs